



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**ADOPTION CAUSE NO. 2 OF 2017**  
**IN THE MATTER OF BABY M a.k.a.**

M M J.....INFANT

AND

J O N.....1ST APPLICANT

C M K.....2ND APPLICANT

**JUDGMENT**

The Application is brought by way of Originating Summons and is dated the 24th February, 2017. The Applicants J O N and C M K through Karen Wanderi & Company Advocates seek the following orders:

1. Spent.
2. Spent.
3. Spent.
4. Spent.
5. **THAT** the Applicants be authorized to adopt M a.k.a M M J infant.
6. **THAT** ED O N of Post Office Box Number 9760 LANET within the Republic of Kenya be appointed Legal Guardian of the minor.
7. **THAT** It is directed that the Registrar-General shall make in the Adopted Children Register an entry recording the adoption in accordance with the particulars set out in the Schedule to this Order.
8. **THAT** the Registrar of Births and Deaths be and is hereby directed to issue the infant with certificate of birth in the name M M J.

The 1st and 2nd Applicants are husband and wife respectively. They are both employees of the Kenya Prisons Service where the 1st Applicant, JON works as a Senior Sergeant and the 2nd Applicant, CMK is a prison officer. Both are stationed at [particulars withheld] Prison and they reside at the [particulars withheld] Prison Staff Quarters. JON and CMK solemnized their marriage under the Marriage Act (Cap 15) at the Registrar's Office in Nakuru District of the Rift Valley Province of Kenya on the 19/11/2008 and a certificate of marriage Serial Number [particulars withheld] was issued. The Applicants have settled in matrimony though they have no biological child of their own hence the desire to adopt baby **M a.k.a. MMJ** in order to have a complete family.

Baby **M a.k.a. MMJ** was presumably born on 26th March, 2015 at Mbagathi District Hospital. Baby **M. a.k.a. MMJ's** biological mother Joyce Afandi offered him for adoption due to her inability to raise the child. **Baby M a.k.a. MMJ** was conceived while the mother was still a student and she had an incestuous relationship with her cousin which is a taboo to the clan.

J A was taken through the parent offering child for adoption process and she affirmed that it was in the best interest of the child to offer him

for adoption by signing Certificate of Acknowledgement dated 23rd February, 2015. On 26/3/2015 the child was handed over to the custody of T B House as a child in need of care and protection. On 15th May, 2015 baby **M a.k.a. MMJ** was officially committed to the care and custody of T B House vide Protection and Care Case Number 114 of 2015 by the Nairobi Children's Court. On 24th July, 2015 J A swore and signed a final consent for parent offering a child for adoption. Her sister, J A A too gave a final a consent towards the adoption of baby vide an affidavit sworn on 24th July, 2015.

The medical information available indicates that **Baby M a.k.a. MMJ** growth and development is normal and his HIV status is negative. The home has also ensured that the child has received all the immunizations as per the Kenya Expanded Programme on Immunizations Guidelines.

On 19th February, 2015 the Applicants approached the Kenya Children's Home Adoption Society with an intention of being ratified for placement with a child with a view to eventually adopting. A home study was conducted by the society's personnel at the Applicants' [particulars withheld] Prison residence on 15th October, 2015. They were also taken through the adoption process and its implications and took the application forms which they filled and returned on 7th September, 2015. They were subsequently approved to be suitable to adopt by the Change Trust Case Committee in its sitting of 14th November, 2015.

On 5th October, 2016 the Kenya Children's Home Adoption Society in its sitting on 5th October, 2016 freed baby **M a.k.a. MMJ** for adoption and issued a Certificate Of Declaring a Child Free For Adoption Serial Number [particulars withheld] pursuant to Section 156(1) of the Children's Act 2001. The Applicants were subsequently placed with baby **M a.k.a. MMJ** after successful bonding at St. T B House.

On 30th April, 2018 E O N of Post Office Box Number 9760, LANET was appointed as *Guardian ad Litem* of the minor herein and the Director of Children's Services in the Ministry of Labour & Social Protection was directed to investigate the Applicants' fitness to adopt and file a report. The consent of the biological parents was dispensed with and the minor was presumed a Kenyan citizen.

Sonia Jumba, a personnel from the children's department interviewed the Applicants on the 14th May, 2018 and made a home visit to the Applicants' residence on the 16th May, 2018 for further investigations. Mr. Mwambi Mongare, the County Children's Coordinator filed a favourable report in Court dated 29th June, 2018 on the Applicant's suitability to adopt baby **M. a.k.a. MMJ**.

This Court has had occasion to consider the application and the relevant reports filed. I make a finding that as per the report of the County Children Coordinator Nakuru, an appropriate legal guardian needs to be appointed from a person who is not a blood relative of the Applicants.

The Court directs that a suitable application for substitution of a legal guardian be made.

**Dated and Signed at Nakuru this 31st day of July, 2018.**

**A. K. NDUNG'U**

**JUDGE**